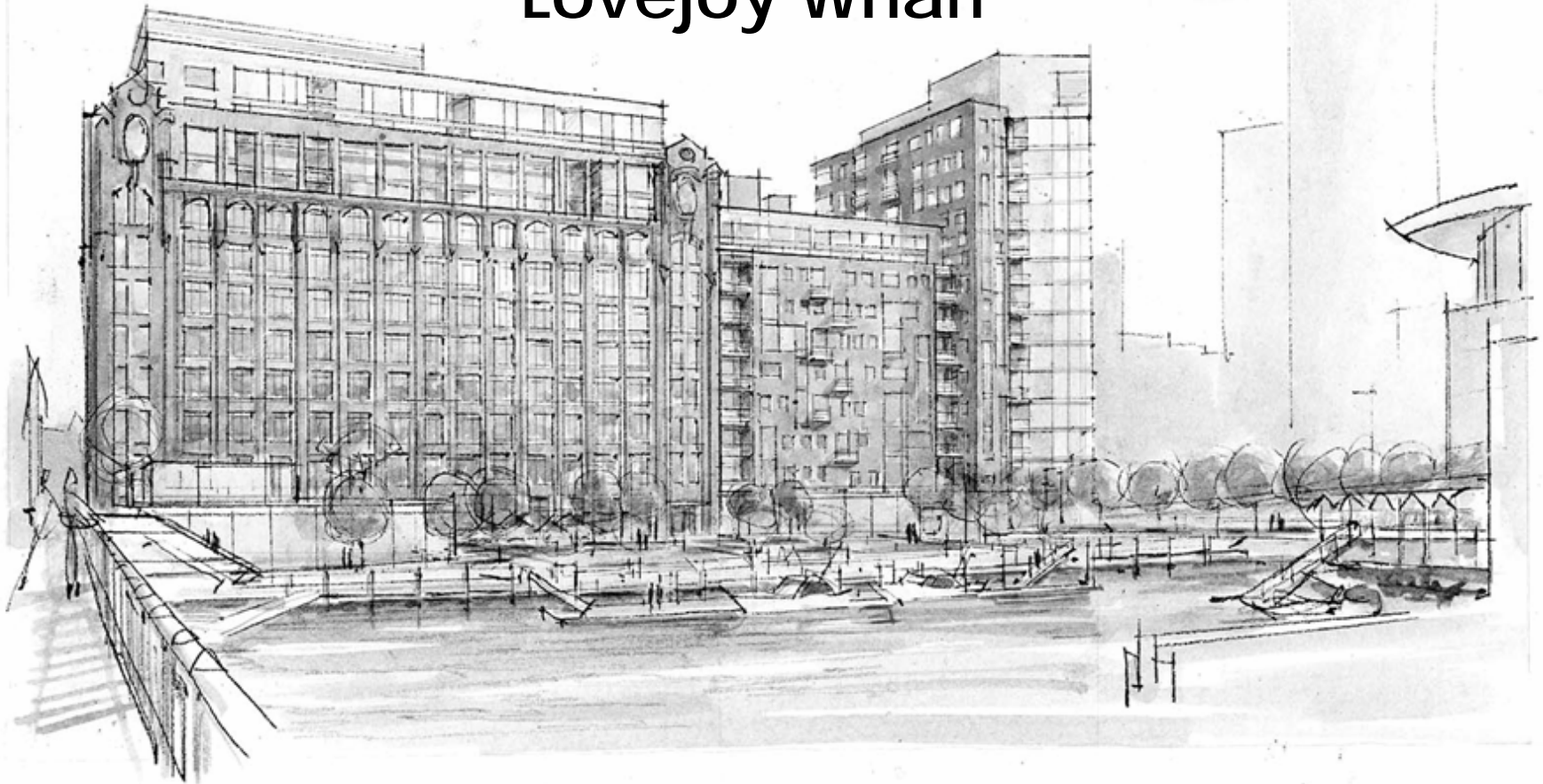


Municipal Harbor Plan Amendment for Lovejoy Wharf





Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority



HARBORWALK BOSTON





Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority







Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority





Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority



Boston Redevelopment Authority



Summary of Existing Condition and Plan Amendment Compliance: Chapter 91 Regulations (310 CMR 9.00)

Lovejoy Wharf Site

Draft for Discussion and Review

February 1, 2006

Regulation Reference	Requirement or Standard	Compliance: Existing Conditions	Compliance: Plan Amendment and Lovejoy Wharf Development
310 CMR 9.15	Extended Term Chapter 91 License	Would not comply with approval conditions for extended licensing, including lack of contribution towards water transportation.	Fully complies with the approval criteria for an extended 99-year term, including compliance with the licensing term amplification requirements for 99 years associated with the DEP Draft Water Transportation Policy (see Table: Summary of Substitutions, Offsets and Amplifications).
310 CMR 9.32	Categorical Restrictions on Fill and Structures	Conforms as existing use.	Conforms, because none of the proposed improvements are categorically restricted.
310 CMR 9.33	Conformance with Other Applicable Environmental Protection Standards	Conforms as existing use.	Conforms through actions and mitigation as described in the Lovejoy Wharf Draft PIR.
310 CMR 9.34	Conformance with Municipal Zoning and Municipal Harbor Plans		
9.34	Conformance with municipal zoning	Conforms as existing use.	Conforms with existing City of Boston zoning.



Regulation Reference	Requirement or Standard	Compliance: Existing Conditions	Compliance: Plan Amendment and Lovejoy Wharf Development
9.34	Conformance with municipal harbor plans	Not included in the original Harborpark Municipal Harbor Plan; not addressed in 1999 MHP Limited Geographic Amendment	Fully conforms with the original Harborpark Municipal Harbor Plan as addressed through this plan amendment. Also conforms with the goals, methods and approach used in the 1999 Limited Geographic Area MHP Plan Amendment, including establishing substitutions that are consistent with City of Boston zoning (see above).
310 CMR 9.35	Standards to Preserve Water-Related Public Rights		
9.35(2)(a)	Public navigation	No facility for public navigation.	Fully complies with floating dock for short term boat tie-up for public use.
9.35(3)(b)	Continuous lateral public access along the water edge	Does not conform; continuous public access is blocked by deteriorated pier and fencing, although the site would be subject to an enforcement action by the agency of jurisdiction (DEP).	Fully complies with 12-foot wide minimum Harborwalk and adjacent public open space, meeting all related requirements.
9.35(5)	Long-term management of publicly-accessible areas for effective use and enjoyment	Does not comply.	Will comply with a management plan as part of the Chapter 91 licensing process to manage activities and spaces for those areas that are accessible to the public.
310 CMR 9.36	Standards to Protect Water-Dependent Uses		
		Does not comply: waterfront area largely devoted to parking use in conflict with public access and use of the water.	Fully complies; converts entire pier to public access and water-dependent use with no conflicting nonwater-dependent uses.



Regulation Reference	Requirement or Standard	Compliance: Existing Conditions	Compliance: Plan Amendment and Lovejoy Wharf Development
310 CMR 9.37	Engineering Construction Standards	Existing pier structures in dilapidated condition that do not conform to standards, and may be a future threat to navigation.	All dilapidated structures will be removed and new structures will conform to the engineering construction standards.
310 CMR 9.38	Use Standards for Recreational Boating Facilities	No facilities provided.	Fully complies with floating dock for short term boat tie-up for public use.
310 CMR 9.51	Conservation of Capacity for Water-Dependent Use (dimensional and use standards)		
9.51(1)	Prevention of significant conflict	Does not comply; substantial conflict with existing parking use on pier and dilapidated conditions.	Fully complies; no conflicting uses. The open space management plan will require future disclosure of water-dependent uses and their protected status as a condition of future sales or leases at Lovejoy Wharf.
9.51(2)).	Compatibility of redevelopment with water-dependent uses	Not applicable because there would be no redevelopment.	Fully complies; new development compatible with water-dependent uses.
9.51(3)(b)	Setbacks for nonwater-dependent facilities of private tenancy	Complies.	Complies.
9.51(3)(c)	Setbacks from a water-dependent use zone	Complies.	Would comply with a substitute provision providing for adjustment in location and including offsetting benefits (see Table: Summary of Substitutions, Offsets and Amplifications).
9.51(3)(c)	Uses within the water-dependent use zone	Does not comply because of the parking use in the water-dependent use zone.	Would fully comply by providing public open space as well as other water-dependent uses.



Regulation Reference	Requirement or Standard	Compliance: Existing Conditions	Compliance: Plan Amendment and Lovejoy Wharf Development
9.51(3)(d)	Open space	Complies using standard definitions. Provides approximately 51% of the applicable site area. However, much of this area is devoted to nonwater-dependent uses (parking) and is not practically publicly accessible.	Compliance would be provided through a substitute provision and offsetting benefits for this requirement; provides approximately 46% of applicable site area using the standard definition, and provides for at least an additional 4% in public space at the level of Washington Street, for at least 50% effective open space (see Table: Summary of Substitutions, Offsets and Amplifications).
9.51(3)(e)	Height standards and related impacts on public use or access	Does not comply with existing height standards.	Compliance would be provided through a substitute provision and offsetting benefits for this requirement (see Table: Summary of Substitutions, Offsets and Amplifications).
310 CMR 9.52	Utilization of the Shoreline for Water-Dependent Purposes		
9.52	Use of shoreline for water-dependent purposes	Does not comply; parking dominates use of the pier.	Fully complies; devotes entire pier edge to water-dependent uses and public access.
9.52(1)(a)	One or more facilities to generate water-dependent activity	Does not comply.	Fully complies with floating dock for short term boat tie-up for public use and with waterfront open space and walkways for public recreation. Also complies with Draft DEP Water Transportation Policy through an amplification provision (see Table: Summary of Substitutions, Offsets and Amplifications).



Regulation Reference	Requirement or Standard	Compliance: Existing Conditions	Compliance: Plan Amendment and Lovejoy Wharf Development
9.S2(1)(b)	Provision of a pedestrian access network	Does not comply.	Fully complies with multiple open space and sidewalk improvements, including the extension of the Harborwalk network.
310 CMR 9.53	Activation of Commonwealth Tidelands		
9.S3(2)(a)	Water-based facility to promote public water-based activity	Does not comply.	<p>Fully complies with floating dock for short term boat tie-up for public use.</p> <p>Also complies with Draft DEP Water Transportation Policy through an amplification provision (see Table: Summary of Substitutions, Offsets and Amplifications).</p>
9.S3(2)(b)	Exterior open space for public recreation	Does not comply.	Fully complies with exterior waterfront plaza and open space that will incorporate lighting, seating, access to restrooms, trash receptacles fish cutting stations, interpretive and wayfinding signage and landscape amenities. Meets open space proportion standards equivalent to at least 50% of site area within Commonwealth Tidelands. The public open space will be managed and operated according to an approved open space management plan to govern year-round use during the entire term of the license.



Regulation Reference	Requirement or Standard	Compliance: Existing Conditions	Compliance: Plan Amendment and Lovejoy Wharf Development
9.53(2)(c)	Facilities of public accommodation	Does not comply; ground level facilities of public accommodation below the amount required.	At least 34,000 square feet of interior space of on the wharf level and the North Washington Street level of the Lovejoy Wharf project dedicated to Facilities of Public Accommodation, a figure in excess of the required amount (an area equivalent to the building footprints within Commonwealth Tidelands).
310 CMR 9.54	Compliance with MCZM Policies	Does not comply with several policies.	Fully complies with all applicable policies.
301 CMR 23.05	Standards for Plan Approval		
23.05 (2)(b)	Amplification - Draft DEP Water Transportation Policy: Water Transportation and Extended License Term	Does not apply to existing uses and improvements	Fully complies as follows: the total monetary value of the water transportation infrastructure and subsidies, calculated at the rate of \$2.00 per square foot, based on a total build-out (approximately 430,642 square feet), less the area of the facilities of public accommodation (approximately 34,000 square feet). Total contribution for the project site will be approximately \$794,000.



Summary of Substitutions, Offsets, and Amplifications

Municipal Harbor Plan Amendment
Lovejoy Wharf Site

Draft for Discussion and Review
February 1, 2006

Direction or Regulation		Substitution or Amplification	Public Benefits and Offsets
310 CMR 9.52(b)(1) Public Access Network ¹³	<i>"...walkways and related facilities along the entire length of the water-dependent use zone; wherever feasible, such walkways shall be adjacent to the project shoreline and, except as otherwise provided in a municipal harbor plan, shall be no less than ten feet in width..."</i>	The minimum standard would have been widened to twelve (12) feet from the existing standard of ten (10) feet.	The substitution directly benefits the public through enhanced access; no offsetting public benefit is required.
310 CMR 9.51(3)(c). Setback/Water-Dependent Use Zone¹³	<i>"New or expanded buildings for non-water-dependent use ... shall not be located within a water-dependent use zone."</i> The water-dependent use zone on the site extends 56 feet landward from the project shoreline. The only instance requiring a substitute provision would be a new Pavilion structure which would extend into the WDUZ, and occupies 3,159 square feet of the 23,393-square-foot WDUZ.	An alternative WDUZ will incorporate the wharf area seaward of the Pavilion footprint up to a minimum width of 15 feet, and proceeding west of the Pavilion, the area seaward of 76 feet from the existing project shoreline. This reconfigured WDUZ would be approximately 24,640 square feet in area, which is 1,247 square feet (5 percent) larger than the WDUZ as required by the regulations, and would allow the public access and waterfront use benefits of the Pavilion to be implemented.	A net increase in the total area of the WDUZ will be required that is no less than 5 percent greater than the WDUZ area that would be required under the standard interpretation of this requirement for the Lovejoy Wharf site. The revised WDUZ will be better configured for the water-dependent uses planned for this area of the harbor by providing better sunlight and adjacencies to other active uses and pedestrian networks that will encourage public access and use.
310 CMR 9.51(3)(d) Lot Coverage and Open Space ¹⁴	"At least one square foot of the project site at ground level, exclusive of areas lying seaward of the project shoreline, shall be reserved as open space for every square foot of tideland area within the combined footprint of buildings containing non-water-dependent use on the project site." About 46 percent of the site would qualify as open space as normally interpreted in this standard.	A maximum open space proportion of 46% will be required at wharf level as normally interpreted in regards to the Chapter 91 standards.	At least 4,429 of additional open space will be provided at the North Washington Street level to serve as a public open space/terrace and provide access to accessible access to the adjacent wharf level open space below. This space (as with other public open spaces on the site) will be managed and maintained consistent with the standards of the City of Boston Parks and Recreation and the City's related open space standards for the term of the Chapter 91 license. This space will also be operated and managed in conformance with other applicable Chapter 91 standards and licensing requirements. This adjustment will provide an important public open space connection that takes into account the unique topography of the site at this location along the harbor. It will provide direct pedestrian connections between North Washington and the Freedom Trail to the water edge public open space and pedestrian network at the wharf level. The total effective open space will be 50 percent of the site.



Direction or Regulation		Substitution or Amplification	Public Benefits and Offsets
(4) 310 CMR 9.51(3)(e) Height Limitations and the Ground Level Environment ¹³	<p><i>"New or expanded buildings for non-water-dependent use shall not exceed 55 feet in height if located ... within 100 feet landward of the high water mark; at greater landward distances, the height of such buildings shall not exceed 55 feet plus one-half foot for every additional foot of separation from the high water mark; the Department shall waive such height limits if the project conforms to a municipal harbor plan."</i></p> <p>The renovations, additions and new construction would exceed the building volume permitted by the requirement.</p>	<p>A revised maximum building height will be established for the portion of the site landward of the high water mark. Within these limits, the renovations, additions and new construction will comply with the maximum building height of 155 feet as defined by City of Boston Zoning, and in a configuration that is substantially the same as that portrayed in this Municipal Harbor Plan Amendment.</p>	<ul style="list-style-type: none"> For the entire term of the Chapter 91 license, redevelopment of Lovejoy Wharf will provide approximately 1,466 square feet of interior space provided with all necessary utility connections in the Pavilion located as described in this Municipal Harbor Plan amendment. This space will include a civic/cultural space <u>rent free</u> for a tenant such as the Freedom Trail Foundation. An annual operating subsidy of \$25,000 will be provided for the cultural or civic facility for a five-year period. A similar public information facility comprising no less than 500 square feet will be established for the Beverly Street side of the Wharf for the entire term of the Chapter 91 license. This space may be entered through a <u>publicly accessible</u> lobby, sidewalk, or public open space. There will be identifying signage to attract and direct pedestrians. The uses in the space should include information elements associated with the harbor such as interpretive exhibits on the site or building history, historic or interpretive information on the Metropolitan District Commission or Department of Conservation and Recreation, an electronic <u>wayfinding</u> station, and seating associated with the <u>Harborwalk</u> network. The Lovejoy Wharf project will incorporate the future 2.7-acre green space at the foot of Beverly Street into the maintenance plans and program. This will be accomplished through an enforceable Memorandum of Understanding for the entire term of the Chapter 91 license with the public agency that is owner of this space as a condition on the issuance of a Chapter 91 license for the Lovejoy Wharf site. Public restrooms will be provided and maintained at the wharf level with signage indicating their location from public open space along the water's edge. This condition will be maintained for the entire term of the Chapter 91 license. A Management Plan for the Lovejoy Wharf site will provide for maintenance responsibility for the former MBTA water shuttle dock for the five years subsequent to granting of a Chapter 91 License, or until long-term water transportation plans for the area have been finalized, use of the water shuttle facility is ended, and future use is foreclosed.
301 CMR 23.05 (2)(b)	<p><i>"If the plan includes provisions that amplify upon any discretionary requirement of 310 CMR 9.00, such provisions must be complementary in effect with the regulatory principle(s) underlying such discretionary requirement."</i></p>	<p>Amplification - Draft DEP Water Transportation Policy</p> <p>Contribution to water transportation in keeping with a schedule of \$2.00 a square foot for qualifying projects that are also seeking a 99-year license term.</p>	<ul style="list-style-type: none"> Water transportation infrastructure and subsidies calculated at the rate of \$2.00 per square foot, based on a total build-out of approximately 430,642 square feet (the gross square footage of the structures being built in connection with the project) less the square footage of the facilities of public accommodation being provided in connection with the project (approximately 34,000 square feet). The total water transportation contribution for the project site is approximately \$794,000. An up front cash contribution of \$30,000 will be provided to prepare a professional evaluation of the Lovejoy Wharf basin for the most appropriate location and configuration of public docking and water transportation facilities on and adjacent to the site, including the former MBTA Water Shuttle facility. This study will be managed by the BRA with participation by local and state agencies in order to establish short-term and long-term recommendations. The balance of the contribution (approximately \$764,000) will be provided for water transportation <u>watersheet</u> activation purposes. This may be a combination of in-kind or cash subsidy support. In kind support for water transportation could include the construction of water transit terminals, docks, waiting areas and ticket offices. It could also take the form of a <u>cash operating</u> subsidy for water transportation <u>watersheet</u> activation services, with such services to utilize the project site or adjacent docking facilities consistent with water transportation planning for Boston Inner Harbor.

